

BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

MARVIN W. SIMMONS, M.D.)
License No. C-12065)

Respondent.)
_____)

No. D-3420

DECISION

The attached Stipulation is hereby adopted
by the Division of Medical Quality of the Board of Medical
Quality Assurance as its Decision in the above-entitled
matter.

This Decision shall become effective on August 11, 1986.

IT IS SO ORDERED July 11, 1986.

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE


MILLER MEDEARIS
Secretary-Treasurer

1 JOHN K. VAN DE KAMP, Attorney General
of the State of California
2 ROY S. LIEBMAN,
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6 Attorneys for Complainant
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8 BEFORE THE
DIVISION OF MEDICAL QUALITY
9 BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation)
Against:) No. D-3420
12)
MARVIN W. SIMMONS, M.D.)
13 P. O. Box 5173)
Fresno, CA 93755)
14) STIPULATION AND
Physician's and Surgeon's) DECISION AND ORDER
15 Certificate No. C-012065,)
Respondent.)
16)
17

18 IT IS HEREBY STIPULATED BY AND BETWEEN the parties to
19 the above-entitled matter that,

20 1. Respondent Marvin W. Simmons, M.D. (hereinafter
21 "respondent") was issued physician's and surgeon's certificate
22 No. C-012065 under the laws of the State of California, and that
23 at all times mentioned herein, said certificate was, and now is,
24 in full force and effect.
25 2. On or about October 10, 1985, Accusation No. D-3420
26 was filed against respondent's certificate before the Division of
27 Medical Quality, Board of Medical Quality Assurance. Said

1 accusation alleges cause for disciplinary action against respon-
2 dent's certificate, and said accusation is incorporated herein by
3 reference as though fully set forth at this point. Respondent was
4 duly and properly served with said accusation by certified mail,
5 and respondent filed a timely Notice of Defense requesting a hearing
6 on the charges contained in the Accusation.

7 3. Respondent has obtained as his counsel Robin R.
8 Senter, Esq. Respondent has fully discussed with his counsel the
9 charges and allegations of violation of the California Business and
10 Professions Code contained in Accusation No. D-3420, and has been
11 fully advised of his rights under the Administrative Procedure Act
12 of the State of California, including his right to a formal hearing
13 and opportunity to defend against the charges contained in the
14 Accusation, and reconsideration and appeal of any adverse decision
15 that might be rendered following a formal hearing. Respondent
16 knowingly and intelligently waives his rights to a hearing,
17 reconsideration, appeal, and to any and all other rights which
18 may be accorded to him pursuant to the Administrative Procedure
19 Act regarding the charges contained in Accusation No. D-3420.

20 4. Respondent admits the truth of all matters alleged
21 in accusation No. D-3420, attached hereinbelow as Exhibit A.

22 5. Based on the foregoing, it is stipulated that the
23 Division of Medical Quality Assurance may issue the following
24 Decision and Order:

25 A. Respondent's physician's and surgeon's certificate
26 No. C-012065 is hereby suspended for sixty (60) days; provided,
27 however, that said suspension shall be stayed and respondent

1 shall be placed upon probation for a period of two (2) years upon
2 the following terms and conditions:

- 3 (1) Respondent shall obey all federal, state and local
4 laws, and all rules governing the practice of medicine
5 in California.
- 6 (2) Respondent shall submit quarterly declarations under
7 penalty of perjury on forms provided by the Division,
8 stating whether there has been compliance with all of
9 the conditions of probation.
- 10 (3) Respondent shall comply with the Division's probation
11 surveillance program.
- 12 (4) Respondent shall appear in person for interviews with
13 the Division's medical consultant upon request at
14 various intervals and with reasonable notice.
- 15 (5) In the event respondent should leave California to
16 reside or to practice outside the State, respondent
17 must notify the Division in writing of the dates of
18 departure and return. Periods of residency or practice
19 outside California will not apply to the reduction of
20 this probationary period.

21 B. Upon successful completion of probation, respondent's
22 certificate will be fully restored. If respondent violates proba-
23 tion in any respect, the Division, after giving respondent notice
24 and the opportunity to be heard, may revoke probation and carry
25 out the disciplinary order that was stayed. If an accusation or
26 petition to revoke probation is filed against respondent during
27 probation, the Division shall have continuing jurisdiction until

1 the matter is final, and the period of probation shall be
2 extended until the matter is final.

3 6. In the event that this Stipulation, Decision and.
4 Order is not accepted and adopted by the Division, the Stipulation,
5 and characterizations of law and fact made by all parties herein
6 shall be null, void and inadmissible in any proceeding involving
7 the parties to it.

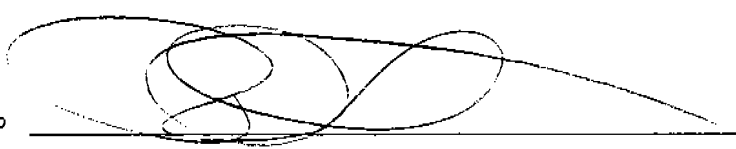
8 JOHN K. VAN DE KAMP, Attorney General
9 of the State of California
10 ROY S. LIEBMAN
11 Deputy Attorney General

12 Dated: 19 FEB 86

13 By 

14 ROY S. LIEBMAN
15 Deputy Attorney General
16 Attorneys for Complainant

17 Dated: Feb 25 1986

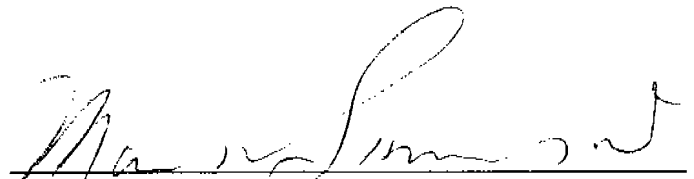
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19 ROBIN R. SENTER, ESQ.
20 Attorney at Law
21 Attorney for Respondent
22 Marvin W. Simmons, M.D.

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26 (continued next page)
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1 I have read the Stipulation, Decision and Order. I
2 understand I have the right to a hearing on the charges contained
3 in the Accusation, the right to cross-examine witnesses, and the
4 right to introduce evidence in mitigation. I have discussed this
5 Stipulation and the charges contained in the Accusation with my
6 counsel and my rights to a hearing and defense. I knowingly and
7 intelligently waive all of these rights, and understand that by
8 signing this Stipulation, I am permitting the Division of Medical
9 Quality, Board of Medical Quality Assurance to impose discipline
10 against my certificate. I understand the terms and ramifications
11 of the Stipulation, Decision and Order and agree to be bound by
12 all of its terms and conditions.

13 DATED: 22 Feb 86

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16 MARVIN W. SIMMONS, M.D.
17 Respondent.
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14) ACCUSATION
Physician's and Surgeon's)
15 Certificate No. C-012065,)
Respondent.)
16 _____)
17

18 COMES NOW the complainant, KENNETH WAGSTAFF, and as
19 causes for disciplinary action against the above-named respondent,
20 alleges as follows:

21 1. Complainant, KENNETH WAGSTAFF, is the Executive
22 Director of the Board of Medical Quality Assurance of the State of
23 California (hereinafter referred to as the "Board") and makes this
24 Accusation solely in such official capacity.

25 2. On or about May 6, 1949, respondent MARVIN W.
26 SIMMONS (hereinafter referred to as "respondent") was issued
27 certificate No. C-012065 by the Board to practice medicine and

1 surgery in the State of California. Respondent's certificate has
2 been in effect at all times since issuance.

3 3. Section 2220 of the Business and Professions Code
4 (hereinafter referred to as the "Code") provides, in part, that
5 the Division of Medical Quality may take action against all persons
6 guilty of violating the State Medical Practice Act. Section 2227
7 of the Code provides, in part, that the Division of Medical Quality
8 may revoke, suspend, place upon probation, or publicly reprimand a
9 licensee who is found guilty of violating the State Medical
10 Practice Act and, in addition, may take such other action as may
11 be deemed proper.

12 4. Section 2234(e) of the Code provides, in part, that
13 the Division of Medical Quality shall take action against any
14 licensee who is charged with unprofessional conduct, which includes,
15 but is not limited to, the commission of any act involving dis-
16 honesty or corruption which is substantially related to the quali-
17 fications, functions or duties of a physician and surgeon.

18 5. Section 2236(a) of the Code provides that the con-
19 viction of any offense substantially related to the qualifications,
20 functions, or duties of a physician and surgeon constitutes unpro-
21 fessional conduct within the meaning of the State Medical Practice
22 Act. Section 2236(b) of the Code provides, in part, that a plea
23 or verdict of guilty or a conviction following a plea of nolo
24 contendere made to a charge substantially related to the qualifica-
25 tions, functions, or duties of a physician and surgeon is deemed
26 to be a conviction within the meaning of section 2236.

27 6. Respondent is subject to disciplinary action pursuant

1 to sections 2234(e) and 2236(a). The circumstances are as follows:

2 A. On or about January 7, 1985, in the case of
3 United States v. Marvin W. Simmons, United States District
4 Court for the Eastern District of California, Case No.
5 CRF 83-81, respondent was convicted, following his plea of
6 nolo contendere, of violating 18 U.S.C. § 1342. Respondent
7 was sentenced to five years in federal prison, with the
8 execution of sentence suspended for five years based upon
9 certain terms and conditions of probation.


10 B. Respondent was convicted of carrying on by
11 means of the United States Postal Service a scheme to defraud
12 the United States Internal Revenue Service and the United
13 States Bankruptcy Court. The offense respondent was con-
14 victed of is substantially related to the qualifications,
15 functions, or duties of a physician and surgeon.

16 WHEREFORE, complainant prays that the Division of Medical
17 Quality hold a hearing on the matters alleged herein and, following
18 said hearing, issue a decision:

19 1. Suspending or revoking respondent's certificate
20 No. C-012065; or

21 2. Taking such other and further action as the Division
22 deems necessary and proper.

23 Dated: October 10, 1985

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25 
26 KENNETH WAGSTAFF, Executive Director
Division of Medical Quality
Board of Medical Quality Assurance
State of California

27 Complainant.

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